The Order of His Royal Highness the Prince Regent in Council, upon the Complaints of the House of Assembly of Lower Canada against the Chief Justice of the Province, the Chief Justice of the Court of King's Bench for the District of Montreal, the Executive Council (Judges in the Court of Appeal) and the puisnè Justices of the Court of King's Bench for the District of Quebec, and of the Court of King's Bench for the District of Montreal, in the same Province, respecting the Rules of Practice established in those Courts; with other Documents, respecting the Decision of His Royal Highness upon the remainder of the Complaints of the said Assembly.

No. I.

At the Court at Carlton House, the 29th of June, 1815.

(L. S.)

The Order of the Prince Regent in Council.

PRESENT

HIS ROYAL HIGHNESS THE PRINCE REGENT,

His Royal Highness the Duke of York,
His Royal Highness the Duke of Cumberland,
Archbishop of Canterbury,
Lord President,
Lord Privy Seal,
Duke of Montrose,
Lord Chamberlain,
Marquis of Winchester,
Marquis Wellesley,
Marquis Camden,
Lord Steward,
Earl of Chesterfield,
Earl of Harrington,
Earl of Buckinghamshire,
Earl of Chatham,
Earl of Liverpool,
Earl of Chichester,
Earl of Mulgrave,
Lord Charles Bentinck,
Viscount Palmerston,
Viscount Melville,
Viscount Sidmouth,
Viscount Jocelyn,
Viscount Castlereagh,
Lord George Beresford,
Lord Arden,
Mr. Wellesley Pole,
Mr. Bathurst,
Mr. Long,
Mr. Chancellor of the Exchequer.

WHEREAS there was this day read at the board a report from a committee of the Lords of his Majesty's most honourable Privy Council, dated the 24th of this instant, in the words following: viz.

" Your Royal Highness having been pleased, by your order in council of the 10th of December last, in the name and on the behalf of his Majesty, to refer unto this committee a letter from Earl Bathurst, one of his Majesty's principal Secretaries of State, to the Lord President of the Council, transmitting copy of a letter from Sir George Prevost, dated Quebec, the 18th of March, 1814, forwarding an address of the House of Assembly of Lower Canada to your Royal Highness, with certain articles of complaint, therein referred to, against Jonathan Sewell, Esq. his Majesty's Chief Justice of the Province of Lower Canada, and James Monk, Esq. Chief Justice of the Court of King's Bench for the district of Montreal; and also transmitting a memorial from the Executive Council Judges in the court of Appeal, and of the puisnè Judges of the Court of King's Bench for the district of Quebec, and of the Court of King's Bench for the district of Montreal, in the said province of Lower Canada, praying to be included in the examination and decision of the said articles of complaint, together with a petition from the said Jonathan Sewell, Esq.; in which letter the said Earl Bathurst requests that so much of the said complaints of the House of Assembly, as relate to the rules of practice stated to have been introduced by the said chief justices into their respective courts, may be submitted to your Royal Highness, in Council, in order that, if such rules shall be found to have been introduced, it may be decided whether in so doing the said chief justices have exceeded their authority: the Lords of the Committee, in obedience to your Royal Highness's said order of reference, have taken the said letter and its inclosures into consideration, and having received the opinion of his Majesty's Attorney and Solicitor-General, and been attended by them thereupon, and having maturely deliberated upon the complaints of the said House of Assembly, so far as they relate to the said rules of practice, their Lordships do agree humbly to report as their opinion to your Royal Highness, That the rules, which are made the subject of such complaint of the said House of Assembly of Lower Canada, against the said chief

justices, Jonathan Sewell, Esquire, and James Monk, Esquire, which, their Lordships observe, were not made by the said chief justices, respectively, upon their own sole authority, but by them, in conjunction with the other judges of their respective courts, are all rules for the regulation of the practice of their respective courts, and within the scope of that power and jurisdiction with which, by the rules of law, and by the colonial ordinances and acts of legislation, these courts are invested, as consequently that neither the said chief justices, nor the courts in which they preside, have, in making such rules, exceeded their authority, nor have been guilty of any assumption of legislative power."

His Royal Highness the Prince Regent, having taken the said report into consideration, was pleased, in the name and on the behalf of his Majesty, and by and with the advice of his Majesty's Privy Council, to approve thereof; and to order, as it is hereby ordered, That the said complaints, so far as they relate to the said rules of practice, be, and they are hereby dismissed this board.

(Signed) JAMES BULLER.

No. II.

Downing-Street, July 23, 1815.

Sir,

His Royal Highness the Prince Regent having been pleased to refer to the consideration of a committee of the most honourable Privy Council certain articles of complaint against you and Mr. Monk, so far as related to the rules of practice established by you in the courts in which you respectively preside, it now becomes my duty to communicate to you the result of that inquiry; which, having received the entire approbation of his Royal Highness, is expressed in the order, of which the inclosed is a copy *(a)*.

Letter from Earl Bathurst.

(a) Vide, ante, No. I.

The officer, at present administering the government of Canada, has received his Royal Highness's commands to communicate this decision to the House of Assembly; and, in making this communication, to state the grounds upon which his Royal

Highness has declined considering as articles of complaint against you, the advice which you are at different times stated to have given to the preceding governors of the province. It is highly satisfactory to me to assure you that, although his Royal Highness felt compelled, upon general principles, to exclude those particular charges from consideration, and thus to preclude you from entering upon your justification, yet his Royal Highness entertains no doubt as to the general propriety of your, and Mr. Monk's conduct, or as to your being able to offer, with respect to them, a full and satisfactory explanation.

I am, Sir,

Your most obedient humble servant,

(Signed) BATHURST.

J. Sewell, Esq.
Chief Justice of Lower Canada.

No. III.

Sir, *Downing-Street, July* 27, 1815.

Letter from Lord Bathurst.

I have had the honour of receiving your letter, of the 24th instant, expressing your apprehension, that as the instructions transmitted to the officer administering the government of Canada do not embrace any other charges brought against you and Mr. Monk, than those which relate to advice given by you to the governor, and the rules of practice established in your respective courts, the House of Assembly may be induced to consider you as not free from blame, on the other points of charge, not strictly falling within that description.

As the letter, addressed to the officer administering the government of Canada, bears testimony to the uniform propriety of yours and Mr. Monk's conduct, I do not conceive that there can be any ground for the House of Assembly to doubt that your justification is complete; but I am glad to have an opportunity of stating that the charges, not specifically adverted to in my letter, appeared to be, with one exception, of too little importance to require consideration, and *that*, (the one against Mr. Monk, which charges him with having refused a writ of habeas corpus) was, as well as all the other charges which are

not founded on the rules of practice, totally unsupported by any evidence whatever.

I have the honour to be,
Sir,
Your most obedient humble servant,
(Signed) BATHURST.

J. Sewell, Esq.
Chief Justice of Lower Canada.

No. IV.

Council Office, Whitehall,
August 17, 1815.

Sir,

Letter from Lord Chetwynd.

Agreeably to the request, signified in your letter of the 30th ultimo, I have the honour to inclose to you a copy of the order in council, dismissing the complaints of the House of Assembly of Lower Canada, so far as they relate to the rules of practice, &c. with the names of the lords present in council when the report of the lords of the committee, respecting those complaints, was approved.

The report of the lords of the committee is entered at length in the copy of the order; but it is not the practice to insert the names of the lords who make the report; yet as it is important that it should be known in Canada by what high legal authority the said report was made, I have it in command from the Lord President to communicate their names to you, and they are as follow:

THE LORD PRESIDENT,
EARL BATHURST,
LORD ELLENBOROUGH,
SIR WILLIAM SCOTT,
MASTER OF THE ROLLS,
SIR JOHN NICHOLL,
LORD CHIEF JUSTICE GIBBS,
LORD CHIEF BARON.

I have the honour to be,
Sir,
Your most obedient humble servant,
(Signed) CHETWYND.

J. Sewell, Esq.
Chief Justice of Lower Canada.

Delivered to the Commissioners of the Admiralty for their Consideration in the Council on the 6th day of December 1799

Vide Statute
39 Geo. III Chap. 79
Blackstone Vol. 4. p. 154.

T. DAVISON, Lombard-street,
Whitefriars, London.